

US Serial No. 11/427,120
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Remarks:

Regarding the Information Disclosure Statements:

Applicants filed a first Information Disclosure Statement (IDS) on September 16, 2005 and a second IDS on October 24, 2005. With respect to the first September 16, 2005 IDS, the International Search Report (hereinafter "the ISR") dated May 6, 2004 for application PCT/CH2004/000103 was not initialed by the Examiner. With respect to the second October 24, 2005 IDS, the Non-Patent Literature Document to Izumi Yu et al. was not initialed by the Examiner. In view of the foregoing, Applicants have enclosed, for the convenience of the Patent Office, a copy of the PTO Forms-1449 from the first September 16, 2005 IDS and the second October 24, 2005 IDS. Applicants request that the Examiner initial the ISR and Izumi Yu et al. in the attached PTO Forms-1449 indicating that those references were considered by the Patent Office before the mailing of the January 25, 2008 Office Action. Moreover, Applicants request that the Examiner return an initialed copy of the PTO Forms-1449 to Applicants' representative by facsimile communication to (212)808-0844.

Regarding the rejection of claims 1, 2 and 9 under 35 USC 102(b) as allegedly being anticipated by GB 2 066 839 to Bares et al. (hereinafter "Bares"):

Applicants respectfully traverse the rejection of the foregoing claims in view of Bares.

Prior to discussing the relative merits of the Patent Office's rejection, Applicant points out that unpatentability based on "anticipation" type rejection under 35 USC 102(b) requires that the invention is not in fact new. See *Hoover Group, Inc. v. Custom Metalcraft, Inc.*, 66 F.3d 299, 302, 36 USPQ2d 1101, 1103 (Fed. Cir. 1995) ("lack of novelty (often called 'anticipation') requires that the same invention, including each element and limitation of the claims, was known or used by others before it was invented by the patentee"). Anticipation requires that a *single reference* [emphasis added] describe the claimed invention with sufficient precision and detail to establish that the subject matter existed in

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the prior art. See, *In re Spada*, 911 F.2d 705, 708, 15 USPQ2d 1655, 1657 (Fed. Cir. 1990).

The Applicants assert that Bares fails to teach or suggest a method of preparation of a free-flowing solid fragrance-providing composition having the addition of a fragrance to a particulate carrier material in the presence of a water-soluble salt of an alkali or alkaline earth metal as required in amended claim 1.

The Patent Office alleges that Bares discloses a method of preparing a free flowing fragrance-providing composition including the addition of fragrance to a particulate carrier and water soluble-salt of an alkaline metal such as sodium silicate. Applicants disagree with the Patent Office's allegation.

Nowhere does Bares even mention the present of a water-soluble salt of an alkali or alkaline earth metal. Instead, Bares discloses a method of manufacture of perfumed detergents having perfume which is sorbed before its addition to other ingredients on porous carrier, advantageously on the basis of hydrated silicon dioxide (see page 1, lines 89-93 of Bares). The sodium silicate of Bares is merely used as a component of the Bares detergent composition. Nowhere does Bares teach or suggest that the sodium silicate is a salt added to a fragrance-providing composition as alleged by the Patent Office.

Sodium silicate is indeed an alkali metal salt and is water-soluble. However, Bares does not teach or suggest use of sodium silicate in preparation of a fragrance-providing free-flowing composition as recited in claim 1. Instead, Bares discloses that "... the obtained detergent was homogenized with 0.3% by weight of a perfumed sorbent which contained porous hydrated silicon dioxide and a perfume composition on the basis of eucalyptus oil in weight proportion 5:1 (see page 3, lines 18-23 of Bares). The "perfumed sorbent" of Bares has already been prepared and the sodium silicate is merely part of the "obtained detergent." In other words, the perfumed sorbent of Bares is not prepared in the presence

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of sodium silicate or a water-soluble salt of an alkali or alkaline earth metal as required in claim 1. Thus, Bares provides neither the claimed method nor the claimed product of the present application.

Further, the method of claim 1 is not obvious in view of Bares because Bares fails to disclose any use of a water-soluble salt of an alkali or alkaline earth metal in the preparation of a fragrance-providing composition. In view of the teachings of Bares, a person having ordinary skill in the art would not have modified the teachings of Bares, by performing the unnecessary step of using salts when forming the absorbed perfumes of Bares, to achieve presently claimed method. Moreover, the teachings of Bares would not have encouraged one of ordinary skill in the art to alter the preparation of perfumed sorbent of Bares by utilizing a water-soluble salt of an alkali or alkaline earth metal to encompass the method recited in claim 1.

Because the features of independent claim 1 are neither taught nor suggested by Bares, Bares cannot anticipate, nor would not have rendered obvious, the features specifically defined in claim 1 and its dependent claims.

For at least these reasons, claims 1, 2 and 9 are patentably distinct from and/or non-obvious in view of Bares. Reconsideration and withdrawal of the rejection of the claims under 35 U.S.C. 102(b) are respectfully requested.

Regarding the rejection of claims 3, 4, 6, 7 and 10-20 under 35 USC 103(a) as allegedly being unpatentable over Bares:

Applicants respectfully traverse the rejection of the foregoing claims in view of Bares.

Prior to discussing the merits of the Examiner's position, the undersigned reminds the Examiner that the determination of obviousness under § 103(a) requires consideration of the factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1 [148 USPQ 459] (1966): (1) the scope and content of the prior art; (2) the differences between the claims

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and the prior art; (3) the level of ordinary skill in the pertinent art; and (4) secondary considerations, if any, of nonobviousness. *McNeil-PPC, Inc. v. L. Perrigo Co.*, 337 F.3d 1362, 1368, 67 USPQ2d 1649, 1653 (Fed. Cir. 2003). There must be some suggestion, teaching, or motivation arising from what the prior art would have taught a person of ordinary skill in the field of the invention to make the proposed changes to the reference. *In re Fine*, 837 F.2d 1071, 1075, 5 USPQ2d 1596, 1600 (Fed. Cir. 1988). But see also *KSR International Co. v. Teleflex Inc.*, 82 USPQ2D 1385 (U.S. 2007).

A methodology for the analysis of obviousness was set out in *In re Kotzab*, 217 F.3d 1365, 1369-70, 55 USPQ2d 1313, 1316-17 (Fed. Cir. 2000). A critical step in analyzing the patentability of claims pursuant to section 103(a) is casting the mind back to the time of invention, to consider the thinking of one of ordinary skill in the art, guided only by the prior art references and the then-accepted wisdom in the field. Close adherence to this methodology is especially important in cases where the very ease with which the invention can be understood may prompt one "to fall victim to the insidious effect of a hindsight syndrome wherein that which only the invention taught is used against its teacher."

It must also be shown that one having ordinary skill in the art would reasonably have expected any proposed changes to a prior art reference would have been successful. *Amgen, Inc. v. Chugai Pharmaceutical Co.*, 927 F.2d 1200, 1207, 18 USPQ2d 1016, 1022 (Fed. Cir. 1991); *In re O'Farrell*, 853 F.2d 894, 903-04, 7 USPQ2d 1673, 1681 (Fed. Cir. 1988); *In re Clinton*, 527 F.2d 1226, 1228, 188 USPQ 365, 367 (CCPA 1976). "Both the suggestion and the expectation of success must be founded in the prior art, not in the applicant's disclosure." *In re Dow Chem. Co.*, 837 F.2d 469, 473, 5 USPQ2d 1529, 1531 (Fed. Cir. 1988).

The Patent Office acknowledges that Bares does not disclose (1) the ratio of water soluble salt to fragrance in the range of 1.5-20 (see page 3 of the Office Action) and (2) the amount of porous silica being 50% of the particulate carrier which is the ratio of 1:1

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(see page 4 of the Office Action). The Patent Office alleges that the experimental modification of this prior art in order to ascertain optimum operating conditions fails to render Applicants' claim patentable in the absence of unexpected result.

As set forth above with respect to claim 1 (from which claims 3, 4, 6, 7 and 10-20 depend), one having ordinary skill in the art would not have been motivated to modify the teaching of Bares, by performing the unnecessary step of utilizing salts when forming the absorbed perfumes of Bares, to achieve the presently claimed method.

Because these features of independent claim 1 are not taught or suggested by Bares, Bares would not have rendered the features of claims 3, 4, 6, 7 and 10-20 obvious to one of ordinary skill in the art.

Accordingly, reconsideration and withdrawal of the rejection of claims 3, 4, 6, 7 and 10-20 under 35 U.S.C. 103(a) are respectfully requested.

Regarding the rejection of claims 5 and 8 under 35 USC 103(a) as allegedly being unpatentable over Bares:

Applicants respectfully traverse the rejection of the foregoing claims in view of Bares.

The Patent Office acknowledges that Bares does not teach a composition having at least 60% by weight of water soluble salt and 20% by weight of particulate carrier (see page 6 of the Office Action). The Patent Office alleges that the experimental modification of Bares in order to ascertain optimum operating conditions fails to render Applicants' claims patentable in the absence of unexpected results. Applicants disagree with these allegations.

Bares fails to teach or suggest a free-flowing solid fragrance-providing composition, consisting essentially of a particulate carrier on which is deposited a fragrance and a water-soluble salt of an alkali or alkaline earth metal as required by claim 5.

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As discussed with respect to claim 1, the perfumed sorbent of Bares is not prepared in the presence of a water-soluble salt of an alkali or alkaline earth metal as required in claim 5 because the sodium silicate of Bares is utilized only as a component of the detergent composition. Moreover, Bares would not have encouraged alteration of the preparation of the Bares perfumed sorbent with a water-soluble salt of an alkali or alkaline earth metal to encompass the method recited in claim 1. Thus, a person having ordinary skill in the art would not have modified the teachings of Bares, by performing the unnecessary step of using salts when forming the Bares absorbed perfumes to achieve presently claimed method.

Because the features of independent claim 5 are neither taught nor suggested by Bares, Bares cannot anticipate, nor would not have rendered obvious, the features specifically defined in claim 5 and its dependent claims.

Accordingly, reconsideration and withdrawal of the rejection of claims 5 and 8 under 35 U.S.C. 103(a) are respectfully requested.

Should the Examiner in charge of this application believe that telephonic communication with the undersigned would meaningfully advance the prosecution of this application, they are invited to call the undersigned at their earliest convenience.

The early issuance of a *Notice of Allowability* is solicited.

PETITION FOR A TWO-MONTH EXTENSION OF TIME

Applicants respectfully petition for a two-month extension of time in order to permit for the timely entry of this response. The Commissioner is hereby authorized to charge the fee to Deposit Account No. 14-1263 with respect to this petition.

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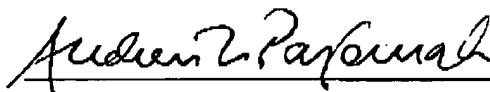
CONDITIONAL AUTHORIZATION FOR FEES

Should any further fee be required by the Commissioner in order to permit the timely entry of this paper, the Commissioner is authorized to charge any such fee to Deposit Account No. 14-1263.

Respectfully submitted,

NORRIS MCLAUGHLIN & MARCUS, P.A.

By



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SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT

APPLICANT

Sheet 1 of 1

Application Number: 10/549,509

Filing Date: September 16, 2005

First Named Inventor: Kumar Venkateswara VEDANTAM

Art Unit: To Be Assigned 1796

Examiner Name: To Be Assigned, Reza Asdjodi

Attorney Docket Number: 102790-197 (38086 US)

U.S. PATENT DOCUMENTS

| Examiner's Initials* | Cite No. ¹ | Document Number Number-Kind Code ³ | Publication Date MM-DD-YYYY | Name of Patentee or Applicant of Cited Document | Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear |
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| Examiner's Initials* | Cite No. | Foreign Patent Document Country Code ² -Number ³ -Kind Code ⁴ | Publication Date MM-DD-YYY | Name of Patentee or Applicant of Cited Document | Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear | T ⁵ |
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|----------------------|----------|---|----------------|
| | | IZUMI YU ET AL: "FRAGRANCE-CONTAINING PARTICLES STORABLE IN LAUNDRY BLEACHES"; CHEMICAL ABSTRACTS + INDEXES, AMERICAN CHEMICAL SOCIETY, COLUMBUS, US, vol. 111, no. 10, 4 September 1989 (1989-09-04), page 134; XP000055812; ISSN: 0009-2258; paragraph '80380X! | |
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EXAMINER SIGNATURE: M. Reza

DATE CONSIDERED: 01/08/2008

*EXAMINER: Initial if reference considered pertinent to disclosure. *Citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. (Include copy of this form with non communication to applicant. *Applicant's unique citation designation number (optional). *Use Kind Codes of USPTO Patent Documents as www.uspto.gov or MPEP 901.04. *Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). *For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. *Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST. 16 if possible. *Applicant is to place a check mark here if English language Translation is attached. The collection of information is required by 37 CFR 1.197 and 1.98. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450. If you need assistance in completing this form, call 1-800-PTO-9199 (1-800-756-9199) and select option 2.

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|---|-----------------------|---|--------------------------------|---|---|----------------|
| INFORMATION DISCLOSURE STATEMENT BY APPLICANT | | Filing Date: | | September 16, 2008 | | |
| | | First Named Inventor | | Kumar Venkateswara VEDANTAM | | |
| | | Art Unit | | To Be Assigned: 1796 | | |
| | | Examiner Name: | | To Be Assigned: Reza Asdjodi | | |
| Sheet 1 of 1 | | Attorney Docket Number: | | 102798-197 (30086 US) | | |
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| Examiner's Initials* | Cite No. ¹ | Document Number Number-Kind Code ¹ | Publication Date MM-DD-YYYY | Name of Patentee or Applicant of Cited Document | Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear | |
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| /M.A./ | | WO 03/020867 A | 03-13-2003 | Forgaci et al. | Claims; examples | |
| /M.A./ | | WO 01/25389 A | 04-12-2001 | Aguadisch et al. | Example II | |
| /M.A./ | | WO 99/21953 A | 05-06-1999 | Patz et al. | Claims | |
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| NON PATENT LITERATURE DOCUMENTS | | | | | | |
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| | | International Search Report dated May 6, 2004 for application PCT/CH2004/000103 | | | | |
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| EXAMINER'S SIGNATURE: M. Reza Asdjodi | | | | | DATE CONSIDERED: 01/08/2008 | |
| <p>*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. *Applicant's unique citation designation number (optional). *see Kinds Codes of USPTO Patent Documents at www.uspto.gov or MPEP 901.04. *Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). *for Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. *Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST. 16 if possible. *Applicant is to place a check mark here if English language Translation is attached.</p> <p>The collection of information is required by 37 CFR 1.197 and 1.98. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.</p> <p>If you need assistance in completing this form, call 1-800-PTO-9199 (1-800-785-9199) and select option 2.</p> | | | | | | |